

IN RE: PETITION FOR VARIANCE
S/S Halbert Avenue, 420' E of
the c/l of Belair Road
(4217-22 & 4300 Halbert Avenue,
and 1-12 Quelet Court)
11th Election District
5th Councilmanic District

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-203-A

Daniel E. McKew, et ux and
Jeff Duerbeck, et ux, f/a
Scottsdale Development Part.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that tract of land comprised of the former Quelet and White properties located adjacent to Halbert Avenue and Quelet Court in the Ferry Hall area of Baltimore County. The Petitioners seek a series of blanket variances for the proposed development of this tract with 17 single family dwellings. Specifically, the Petitioners seek relief from the Baltimore County Zoning Regulations (B.C.Z.R.) and the Comprehensive Manual of Development Policies (C.M.D.P.) as follows: From Section 1B01.2.C.6 of the B.C.Z.R. and V.B.3.b of the C.M.D.P. to permit a distance of as little as 20 feet between buildings 25 feet to 30 feet in height in lieu of the required 30 feet for Lots 1 through 7, Lots 9 through 13, and Lots 16 and 17; from Section 1B01.2.C.2.b of the B.C.Z.R. and V.B.6.c of the C.M.D.P. to permit a distance of as little as 20 feet between the centers of facing windows in lieu of the required 40 feet for Lots 1 through 17; from Section 504 of the B.C.Z.R. and V.B.6.b of the C.M.D.P. to permit distances of as little as 7 feet from window to side yard lot lines in lieu of the required 15 feet for Lots 1 through 12, and 15 through 17; and, from Section 1B01.2.C.2.a of the B.C.Z.R. and V.B.5.a of the C.M.D.P. to permit distances from a tract boundary to a window of as little as 30 feet in lieu of the required 35 feet for Lots 1 through 8, and Lots 13, 15

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and 17. The relief requested is more particularly described on the site plan submitted to accompany the Petition filed which was accepted into evidence as Petitioner's Exhibit 2. In addition, a schedule has been attached to the Petition identifying the 17 lots in question and the specific relief requested for each lot. That schedule is hereby considered as part and parcel of the Petition.

The Petition was filed by the owners of the property, Daniel E. McKew, Stephanie McKew, Jeff Duerbeck and Ruth Duerbeck, collectively trading as the Scottsdale Development Partnership. Participating in the request as Co-Petitioner was Landcon, Inc., through its president, Richard M. Yaffe.

Messrs. McKew, Duerbeck and Yaffe appeared at the public hearing held in this matter. Also appearing in support of the Petition was Richard E. Matz, Professional Engineer with Colbert Engineering, Inc., who prepared the site plan of the subject property. The Petitioners were represented by Newton A. Williams, Esquire. Gregory Jones, a nearby property owner, appeared as a Protestant.

Testimony and evidence presented established that the subject property is located between Horn Avenue and Belair Road in Ferry Hall. The site plan marked as Petitioner's Exhibit 2 discloses that the subject property consists of approximately 4.5 acres in area and is zoned D.R. 5.5. As noted above, the property is actually comprised of two tracts, one formerly owned by the White family and the other by the Quelet family, which have been combined for the purpose of creating a residential subdivision. As indicated on the plan, vehicular access to the property will be via Halbert Avenue, which at the present time, terminates on the east side of the site at a "T" turn-around area. In that direction, the property is

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bordered by the Sharondale East subdivision. Extension of Halbert Avenue from the east is contemplated, which extension will dissect the property into two portions. The site plan indicates that eventual connection of Halbert Avenue to that portion of the street which extends from Belair Road will be feasible. However, at the present time, Halbert Avenue will not be a through road. Moreover, a small cul-de-sac, to be known as Quelet Court, is to be constructed. Along Halbert Avenue and Quelet Court are 17 lots which are intended for development with single family dwellings. The property owners have contracted with Landmark Homes to build the proposed dwelling units, which will range in price from \$190,000 to \$230,000. The Petitioners described the proposed development as a community of large, upscale homes with garages. It is to be noted that CRG approval of the plan was issued in April, 1991. Moreover, the available density for this subdivision will permit 23 lots; however, only 17 lots are proposed. Much of the buildable area on this site is lost due to the storm water management reservation area and the construction of Halbert Avenue and Quelet Court.

Testifying on behalf of the Petition was Jeff Duerbeck, a principal in the partnership which owns the property. Mr. Duerbeck is a builder of custom single-family dwellings and has been engaged in that occupation for approximately 21 years. Most of the houses he builds are \$300,000 to \$1.5 million in price and are built not as spec homes, but as custom-built homes for lot owners. Mr. Duerbeck observed that the subject property is an in-fill development which is appropriate for residential use. Most of the area around the property has been built out, including the adjacent Sharondale East subdivision. Mr. Duerbeck noted that the CRG plan has been approved for this site and that the density permitted under the appli-

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cable D.R. 5.5 regulations was greater than that actually utilized. He also noted that when the original CRG plan was approved, the building envelopes shown were much smaller than those presently proposed. After CRG approval, the owner apparently offered the site for development to numerous builders. Landmark Homes was eventually chosen because of their superior reputation and product. Landmark Homes is a quality builder which has developed a number of subdivisions in the Baltimore Metropolitan area. Landmark offers a variety of models from which to choose but does not build custom homes; however, Mr. Duerbeck testified that in order for Landmark Homes to build any of their models on this particular site, the building envelopes shown on the CRG plan must be expanded. These increased building envelopes mandate the requested variances. Mr. Duerbeck also noted that most of the variances relate to internal distances between specific lots in the subdivision. Thus, he believes that construction as proposed will allow a uniform subdivision with large, single-family homes which are now desirable in the housing market. He does not believe that a granting of the requested variances will adversely impact any of the surrounding subdivisions, including the Sharondale East community east of the subject site.

Also testifying in support of the Petition was Richard Matz, a Professional Engineer. Mr. Matz did not prepare the initial CRG plan but was brought in later by the Petitioners to prepare the site plan. Mr. Matz emphasized that the size of the proposed lots restricts the flexibility of the builder. That is, only five or six of their models will fit on any of the lots. Even after restricting itself to its smaller models, the requested variances are necessary. Mr. Matz noted that the proposed subdivision will be a first-class development and that there would be a strong

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market for the homes constructed therein. In fact, he noted that deposits had already been received for 5 of the 17 lots.

Also testifying on behalf of the Petition was Richard Yaffe, a principal with Landmark Homes. He fully described the homes which are contemplated for this development and offered a brochure, marked as Petitioner's Exhibit 4, which depicts the models proposed. Mr. Yaffe also observed that some of the infrastructure, including utilities, has already been constructed and opined that a denial of the variances requested would be detrimental to the property owners and constitute a true practical difficulty. Moreover, he believes that there will be no adverse impact upon any of the neighboring properties.

The last witness heard from was Gregory Jones, who resides in the Sharondale East subdivision. He did not discuss the requested variances, per se, but is mainly concerned about potential traffic congestion in the area as a result of the proposed subdivision. Indeed, many of the concerns raised by him more properly relate to the approval of the CRG plan. As noted above, this plan was approved nearly three years ago. In any event, Mr. Jones observed that the intersection of Joppa and Belair Roads is presently rated a "D" level of service and believes that the additional traffic that will be generated by the proposed subdivision will worsen traffic congestion on Belair Road. In his view, the number of houses in this development should be reduced so as to lessen the impact of this subdivision. He also noted, from his personal observations, that utilities were not placed on the site until August, 1993.

In addition to considering the testimony and evidence offered at the public hearing, I have also reviewed the Zoning Plans Advisory Committee (ZAC) comments for this case. This Committee is comprised of a number

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of agencies of Baltimore County whose charge is to review proposed development. All plans and Petitions for zoning relief are reviewed by members of that Committee and comments on the merits of those proposals are offered. In this case, a comment was received from the Office of Planning and Zoning (OPZ) dated November 30, 1993. That comment, which is contained in the case file and speaks for itself, recommends denial of the plan. As the comment correctly notes, this site was approved for development by the CRG in 1991. At that time, a different version of the C.M.D.P. was in effect from that which exists today. The Manual was comprehensively redesigned and amended in 1992. However, in that this project was approved in 1991, the old C.M.D.P. is applicable to this development.

Generally speaking, the new C.M.D.P. is less restrictive than the old version. Many setback distances have been reduced and others eliminated altogether. In fact, Mr. Matz testified that some of the variances requested would not be necessary under today's C.M.D.P. However, as the OPZ comments note, there was a certain trade-off for the development community when the new C.M.D.P. was enacted. Although setback distances were modified or eliminated, other design standards were imposed. In fact, the OPZ comments suggest that had the CRG plan been offered for approval under the current development process, it would not have been approved.

Included with its recommended denial of the variances, OPZ suggests that the Developer start from scratch and submit a new plan. They aver that the property should be resubdivided under the current development process and updated C.M.D.P. In their November 30, 1993 comment, OPZ requests a denial of the Petitioners' blanket variance approach. Obviously, the Petitioner is opposed to this suggestion. Resubdivision would no doubt be costly and delay the project. Moreover, the Petitioners suggest

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that the CRG plan already approved is the only practical method of subdividing this site. Specifically, Mr. Matz noted that only development by way of Halbert Avenue and the construction of Quelet Court is practical. He argued that site constraints coupled with vehicular access points to same, prohibits development in any manner other than as proposed under the CRG plan. Moreover, he points out that utilities have already been installed on the site.

This case presents a most difficult issue to decide. From the Petitioners' perspective, approval was obtained for a 17-lot subdivision. The houses to be constructed are indeed a better product than what was originally contemplated. It is not the role of this Zoning Commissioner to determine market strategy for any particular subdivision. If the Petitioners believe that a more larger and expensive home will be a better product and will sell readily in this environment, the wisdom of that decision will ultimately be decided by the prospective buyers and not by this Zoning Commissioner. Moreover, it is indeed true that the current C.M.D.P. has reduced setback requirements and the spirit of the C.M.D.P. seemingly encourages development as proposed on this site.

On the other hand, I cannot help but wonder if the Petitioner has not created its own difficulty. A side by side comparison of the previously approved CRG plan with the plan submitted herein as Petitioner's Exhibit 2, depicts major differences in the size of the homes proposed. For example, one need only consider Lot 11 which is located adjacent to the intersection of Halbert Avenue and Quelet Court. On the CRG plan, a house with a 27-foot side yard setback is shown to the adjacent property known as Lot 12; however, on the site plan submitted in this case, a mere 16-foot side setback is shown for a significantly larger house. On Lot 10, the

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same situation exists. The CRG plan shows a 35-foot rear yard setback and a 15-foot side yard setback towards Lot 11; however, on the site plan, only a 15-foot rear yard setback and a 9-foot side yard setback are proposed. The house is significantly larger and yard space significantly decreased. Moreover, when studying the Petitioner's specific floor plans set forth in Petitioner's Exhibit 4, the potential for additional development comes to light. Lot 10, as referenced above, proposes the construction of an Andrew Harris model home. The Andrew Harris floor plan shows as part of the dwelling a deck to the rear of the property. That deck extends from the house a distance of approximately 8 feet. Assuming that the homeowner wants a deck, a safe assumption for any buyer paying in excess of \$200,000 for a dwelling, the deck will intrude into the backyard within 7 feet of the property line. If the owners of Lot 12 also want a deck, the implications are obvious. The distances between them will be minuscule.

Although this Zoning Commissioner professes no expertise about the real estate market, it is difficult to imagine the customer who would pay in excess of \$200,000 for a single family home on a small lot, with a deck less than 10 yards away from his neighbor. However, again, I repeat that I am not a real estate marketing expert and cannot consider those factors. Rather, I am guided by the law as it relates to the zoning regulations.

When reviewing this project, the Office of Planning and Zoning was particularly concerned about the proposed development for Lots 10, 11, 12 and 13. As noted above, the building envelopes for those lots were such that in the event those homes were built with decks, the distances between same would be minimal. The Petitioners took this concern into consideration and subsequent to the hearing, submitted a revised site plan for Lots

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CURVE DATA TABLE						
FROM	RADIUS	Δ	LENGTH	TANG	CHORD BEARING & DIST.	
7 TO 9	225.007	15°29'40"	82.74	26.49	S89°31'34"E - 52.62	
10 TO 2	342.44	15°45'15"	94.16	47.38	S88°21'49"E - 93.86	
3 TO 11	292.44	15°44'59"	80.39	40.45	N88°21'57"W - 80.13	
22 TO 6	225.126	19°36'43"	77.33	39.05	N86°26'06"W - 76.15	
14 TO 15	350.00	16°00'51"	97.83	49.23	S01°45'50"S - 97.51	
16 TO 17	50.00	23°51'40"	20.32	-	N50°17'43"W - 86.66	
17 TO 18	50.00	62°11'51"	54.28	30.16	N38°32'08"E - 51.45	
18 TO 19	300.00	15°40'40"	71.62	35.98	N00°35'53"E - 71.45	

COORDINATE TABLE				
NO.	NORTH	EAST	NO.	NORTH
1	39849.751	41835.576	12	39797.437
2	39847.721	41835.235	13	39700.895
3	39798.411	41826.948	14	39751.778
4	39415.700	41762.617	15	39654.331
5	39481.898	41378.307	16	39579.148
6	39771.085	41428.641	17	39634.511
7	39823.204	41436.115	18	39674.914
8	40074.049	41478.600	19	39746.356
9	39822.765	41486.730	20	39775.473
10	39850.402	41741.411	21	39786.753
11	39800.698	41746.647	22	39774.300

- DENSITY CALCULATIONS**
- PROPERTY ZONED - DR 5.5
 - GROSS AREA - PARCEL "A" - 3.671 AC.
PARCEL "B" - 0.984 AC.
TOTAL - 4.655 AC.
 - AREA IN BEDS OF ROADS - 0.845 AC.
 - NET AREA - 3.810 AC.
 - NO. OF LOTS ALLOWED NET AREA TRACT "A"
PARCEL "A" 3.671 AC. @ 0.053 AC. = 69.07
PARCEL "B" 0.984 AC. @ 0.053 AC. = 18.57
TOTAL LOTS ALLOWED = 87.64
 - NO. OF LOTS PROPOSED = 17
 - USE OF LOTS - SINGLE FAMILY DWLG. (FOR SALE)

TYPICAL SETBACK REQUIREMENTS - ALL UNITS

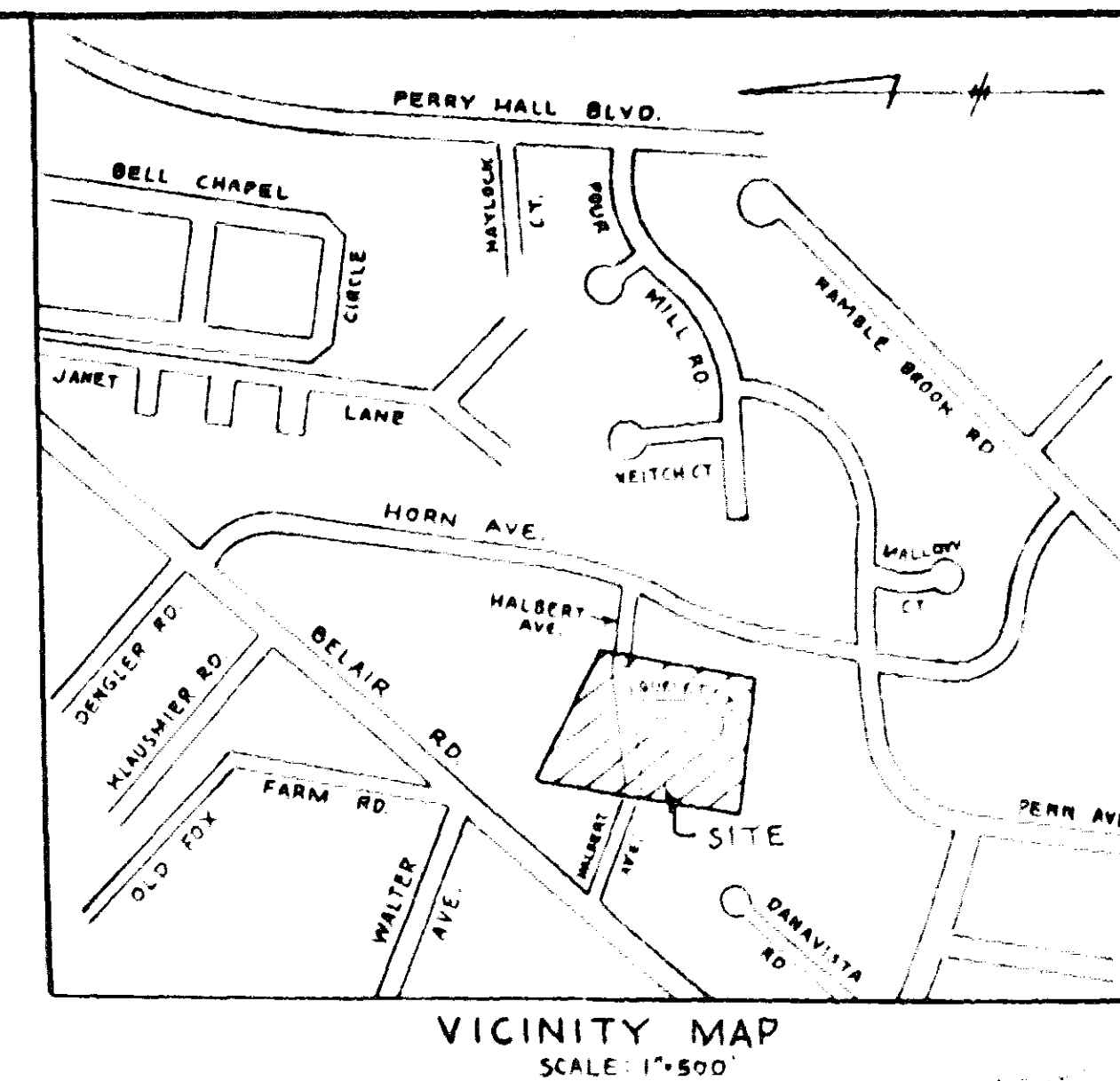
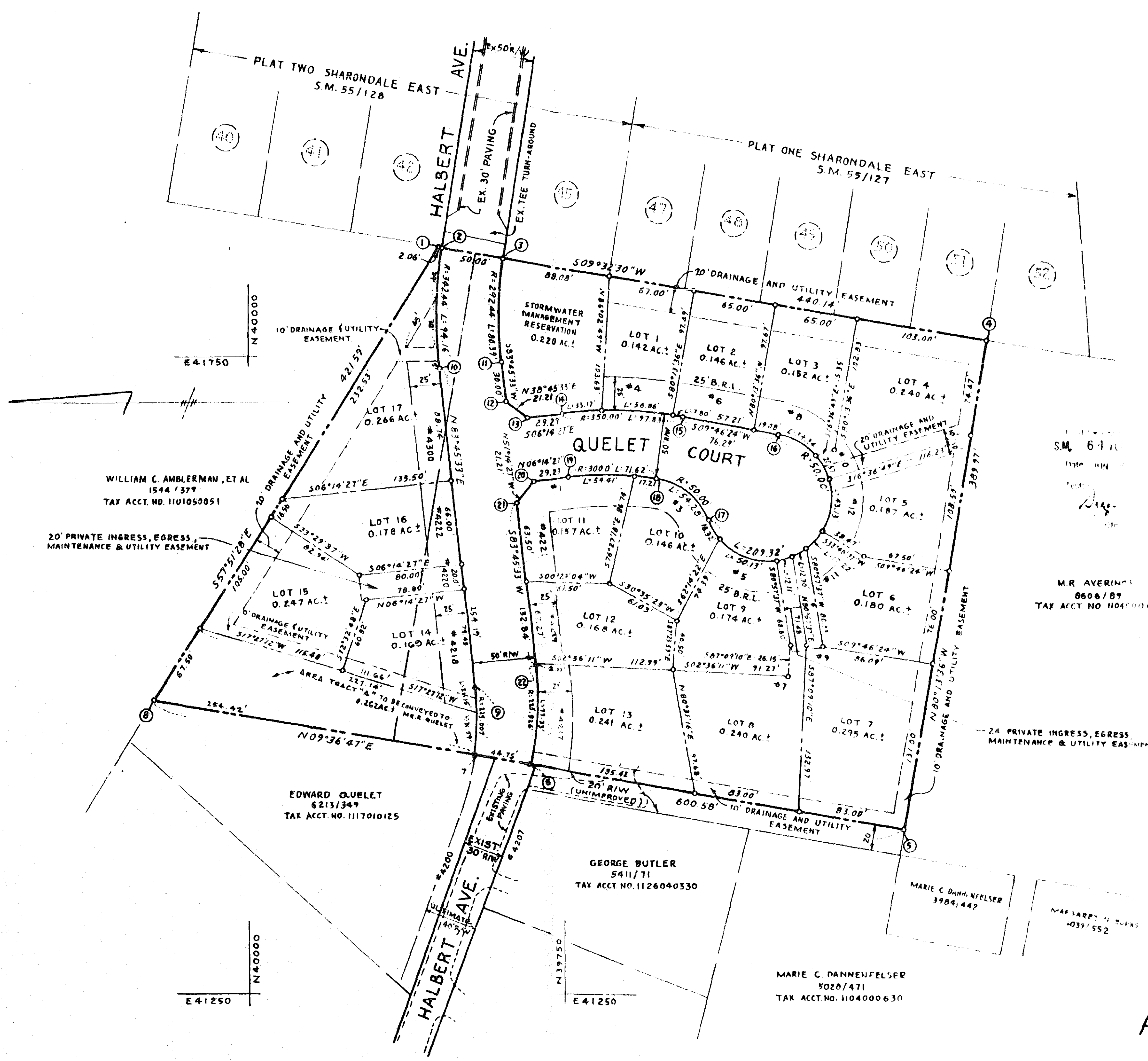
WINDOW TO WINDOW - 40'
WINDOW TO TRACT BOUNDARY - 35'
WINDOW TO STREET R/W - 25'
WINDOW TO LOT LINE - 15'
BUILDING TO TRACT BOUNDARY - 30'
BUILDING TO STREET R/W - 25'
BUILDING TO EXISTING E - 50'
BUILDING TO PROPOSED R/W - 0'



WHEN H < 20' D = 16' MIN.
WHEN H < 25' D = 25' MIN.
WHEN H < 30' D = 30' MIN.
WHEN H < 35' (MAX) D = 40' MIN.

HEIGHT TO HEIGHT RELATION
N.T.S.

- GENERAL NOTES (CONT.)**
- HIGHWAY WIDENING AND AN OVERLAY ALONG BELAIR ROAD WILL BE REQUIRED FOR A LEFT TURN LANE FOR SOUTHBOUND TRAFFIC INTO HALBERT AVENUE.
 - A FEE IN LIEU OF OPEN SPACE IN THE AMOUNT OF \$3,263.22 MUST BE PAID PRIOR TO RECORDEMENT.
 - NOT IN CHESAPEAKE BAY CRITICAL AREA.
 - THE APPROVAL OF THIS PLAT IS BASED UPON A REASONABLE EXPECTATION THAT THE WATER AND SEWER WHICH IS PLANNED FOR THE DEVELOPMENT WILL BE AVAILABLE WHEN NEEDED HOWEVER, BUILDING PERMITS MAY NOT BE ISSUED UNTIL THE PLANNED WATER AND SEWER FACILITIES ARE COMPLETED AND DETERMINED TO BE ADEQUATE TO SERVE THE PROPOSED DEVELOPMENT.



- GENERAL NOTES**
- THIS PLAT MAY EXPIRE IN ACCORDANCE WITH THE PROVISIONS OF THE COUNTY CODE, SECTION 24-216.
 - THE RECORDING OF THIS PLAT DOES NOT GUARANTEE THE INSTALLATION OF STREETS OR UTILITIES BY BALTIMORE COUNTY.
 - THE INFORMATION SHOWN HEREON MAY BE SUPERSEDED BY A SUBSEQUENT OR AMENDED PLAT.
 - THE RECORDING OF THIS PLAT DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY THE COUNTY OF ANY STREET, EASEMENT, PARK, OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THE PLAT.
 - NO WETLAND LIMITS HAVE BEEN DETERMINED FROM FIELD INSPECTION BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
 - ADDITIONAL INFORMATION CONCERNING THIS PLAT MAY BE OBTAINED FROM BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING AND THE DEPARTMENT OF PUBLIC WORKS.
 - HIGHWAYS AND HIGHWAY WIDENINGS, SLOPE EASEMENTS, DRAINAGE AND UTILITY EASEMENTS, ACCESS EASEMENTS, FOREST BUFFER ZONES IN FEE OR EASEMENT, AND STORMWATER MANAGEMENT AREAS, AND MATTER, NOW ENTITLED, SHOWN HEREON, ARE RESERVED UNTO THE OWNER AND, EXCEPT FOR THOSE INDICATED AS PRIVATE, ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND. THE OWNER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS WILL CONVEY SAID APPEAS BY DEED TO BALTIMORE COUNTY, MARYLAND, AT NO COST.
 - STREETS AND/OR ROADS SHOWN HEREON AND THE MATTER THEREOF IN DEEDS ARE FOR PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FILE SAMPLE TITLE TO THE BEUS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.
 - THE OWNER/DEVELOPER WILL COMPLY WITH THE BEST MANAGEMENT PRACTICES ADOPTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
 - THE COVENANTS FOR THE PROPERTY SHOWN ON THIS PLAT WAS APPROVED 7/18/91.
 - EXCEPT AS OTHERWISE INDICATED, ALL BUILDING RESTRICTIONS SHOWN HEREON HAVE BEEN PLACED AS THE RESULT OF AN INTERPRETATION ONLY OF CURRENTLY APPLICABLE REGULATIONS AND POLICIES OF THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING. EXCEPTIONS TO THESE RESTRICTIONS MAY APPLY, INCLUDING THE MINIMUM SETBACK OF 22 FEET TO BE HELD FROM THE STREET RIGHT OF WAY LINE TO THE GARAGE OR CARPORT ENTERED DIRECTLY FROM THE STREET.
 - TRASH COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE TO BE PROVIDED TO THE JUNCTION OF THE HANDBLE AND STREET RIGHT OF WAY'S.

SUBDIVISION PLAT WHITE PROPERTY AND QUELET PROPERTY

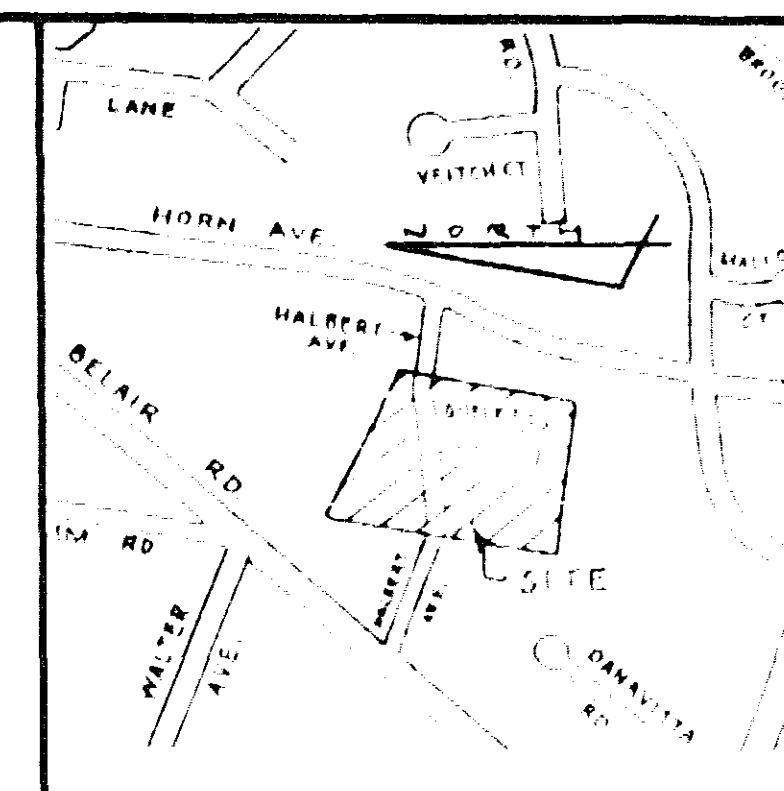
11TH ELECTION DISTRICT
BALTIMORE COUNTY, MD.
SCALE: 1" = 50'
NOV. 27, 1991

94-203-A #203

DANIEL E. MCKEE & STEPHANIE MCKEE,
JEFF DUEBECK & RUTH L. DUEBECK
P.O. BOX 211
PHOENIX, MD.
21131
DEED REF 8876/222
TAX ACCT NO. 1123035400
DEED REF 9109/128
TAX ACCT NO. 2100003002

PETITIONER'S EXHIBIT 2

<p>NOTE:</p> <p>COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE BALTIMORE COUNTY METROPOLITAN DISTRICT AND ARE BASED ON THE FOLLOWING TRAVERSE STATIONS:</p> <p>X-6109 N39580.85 E41291.39 X-6110 N39484.22 E41161.20</p>	<p>NOTE:</p> <p>THE STREETS AND/OR ROADS AS SHOWN HEREON AND THE MATTER THEREOF IN DEEDS ARE FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FILE SAMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.</p>	<p>OWNERS CERTIFICATE</p> <p>THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, HEREBY CERTIFIES THAT, TO THE BEST OF ITS KNOWLEDGE, THE REQUIREMENT OF SUBSECTION (C) OF SECTION 2-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, HAS BEEN COMPLIED, INsofar AS SAME CONCERNS THE MAKING OF THIS PLAT AND THE SETTING OF THE MARKERS.</p> <p><i>Jeffrey Duerbeck</i> JEFFREY DUEBECK DATE 12-4-91</p>	<p>SURVEYORS CERTIFICATE</p> <p>THE UNDERSIGNED, A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DOES HEREBY CERTIFY THAT HE IS THE SURVEYOR WHO PREPARED THIS PLAT AND THAT THE LAND SHOWN ON THIS PLAT HAS BEEN LAID OUT, AND THE PLAT THEREOF HAS BEEN PREPARED, IN COMPLIANCE WITH SUBSECTION (C) OF SECTION 2-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, PARTICULARLY INsofar AS SAME CONCERNS THE MAKING OF THE PLAT AND SETTING OF THE MARKERS.</p> <p>REG. NO. 8075 DATE</p>	<p>APPROVED BY BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT</p> <p><i>John J. Pich</i> DIRECTOR DATE 1/2/92</p> <p>APPROVED FOR THE DEPARTMENT OF PUBLIC WORKS AND THE OFFICE OF PLANNING AND ZONING</p> <p><i>John J. Pich</i> DIRECTOR OF PUBLIC WORKS DATE 4/29/92</p>	<p>M&H DEVELOPMENT ENGINEERS INC. 200 EAST JORPAA ROAD TOWSON, MD 21204 828-7066</p> <p>PWA COMPLETED 11/20/91 FINAL PLAT CHECKED BY PLANNING 1/1/92 ENGINEERING 1/1/92 HOUSE NOS 2272 4 1/2</p> <p>COMPUTED BY CHECKED BY DRAWN BY JOB NO. 7206092</p>
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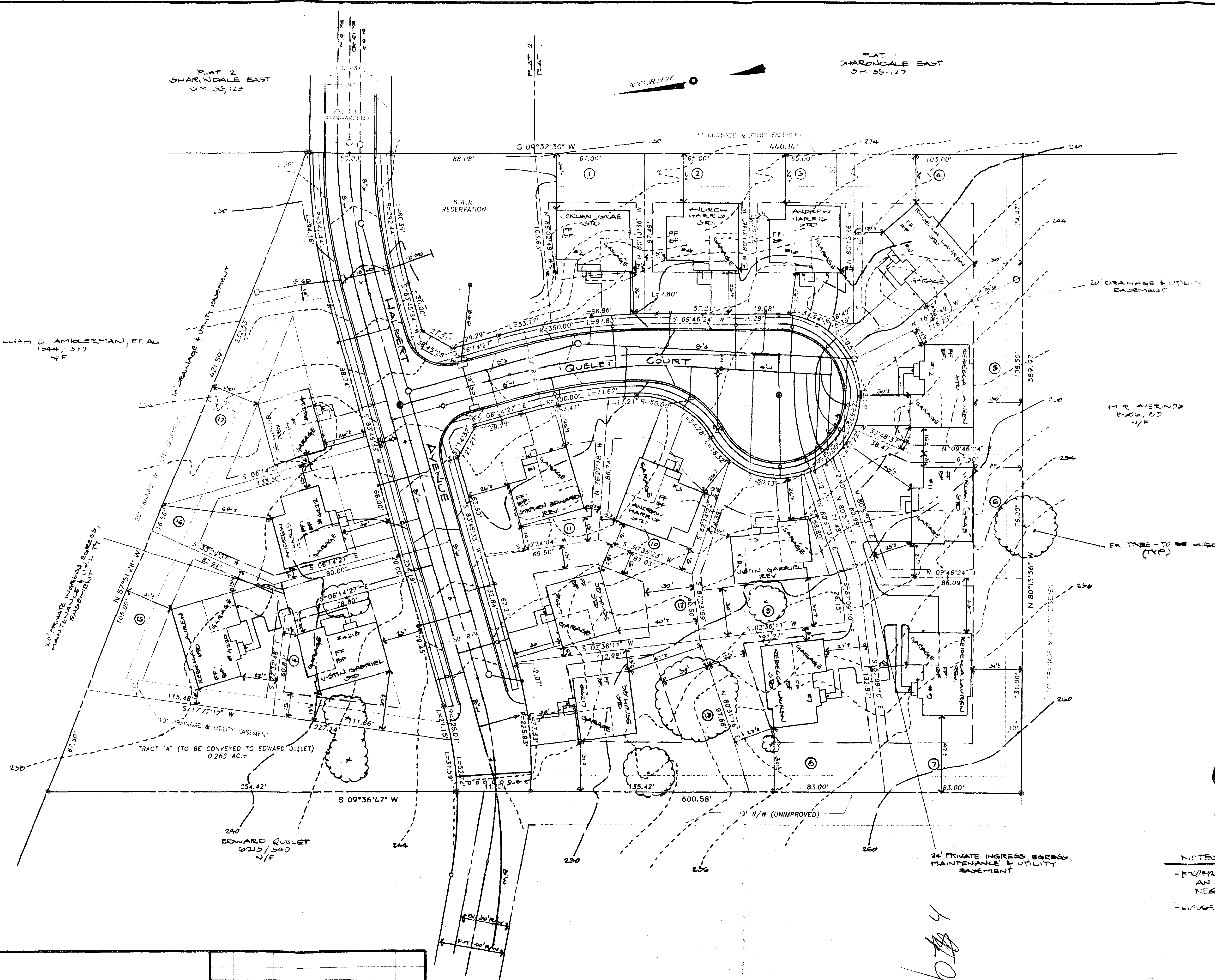


VICINITY MAP
SCALE: 1" = 500'

PLAT 2
SHARONDALE EAST
S.M. 35-123

PLAT 1
SHARONDALE EAST
S.M. 35-127

WILLIAM C. AMICKERMAN, ET AL
1544 / 377
L.F.



LOCATION INFORMATION:

CONGRESSIONAL DISTRICT - 5
ELECTION DISTRICT - 11
1" = 200' SCALE MAP # - NE 109
ZONING - DR 5.5
LOT SIZE - N/A (ON PLAT)
PUBLIC WATER / PUBLIC SEWER
SITE IS NOT LOCATED WITHIN CHEATEAKEE RAY
CRITICAL AREA
THERE ARE NO PRIOR ZONING HEARINGS

94-203-A

NOTES:

- PROPOSED BUILDING ENVELOPES AS SHOWN WILL BE SHOWN ON AN AMENDED FINAL DEVELOPMENT PLAN UPON GRANTING OF REQUESTED VARIANCES.
- HOUSES SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY.

PLAN TO ACCOMPANY
ZONING VARIANCE PETITION

WHITE AND QUELET PROPERTY

11TH ELECTION DISTRICT
BALTIMORE COUNTY, MD
SCALE: 1" = 30'
NOV. 11, 1993
S.M. 64/65

#203

COLBERT ENGINEERING INC.

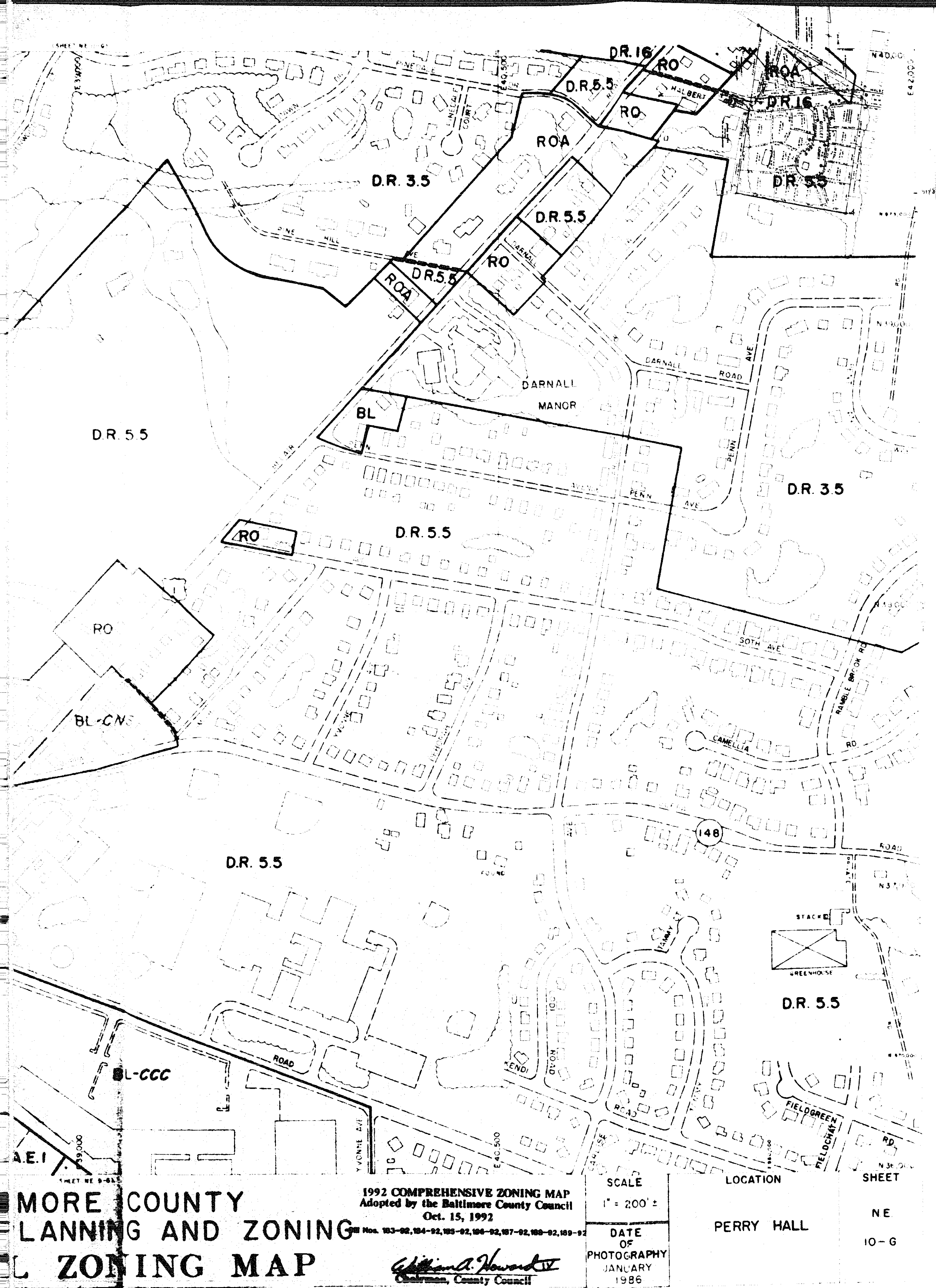
DUMBARTON SQUARE
3723 OLD COURT ROAD, SUITE 206
BALTIMORE, MARYLAND 21208
PHONE: (410) 653-3838

DESIGNED BY	CHECKED BY	DATE	SCALE
C.J.C.	C.J.C.	11/11/93	1" = 30'
93086	93086SP		

NO.	DATE	REVISION	BY



LA 16/93



94-203-A
#203



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE 1" = 200' ±	LOCATION 94-203-A PERRY HALL #203	SHEET NE 10-G
DATE OF PHOTOGRAPHY JANUARY 1986		

10, 11, 12 and 13. That plan, which has been identified herein as Petitioner's Exhibit 5, depicts a lot line shift for each of the four lots in question and ultimately provides for greater distances between each building envelope. By letter dated February 1, 1994, the Office of Planning and Zoning approved the revised plan for these four lots, contingent upon additional landscaping being provided along the property line between Lots 10, 11 and 12, and particularly the rear property line between Lots 10 and 12 to offset the smaller rear yards.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, and the revised site plan for Lots 10, 11, 12 and 13, it appears that the relief requested, as modified, should be granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that practical difficulty or unreasonable hardship will result if the variances

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are not granted. In addition, the variances requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variances requested, as modified, should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16th day of March, 1994 that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) and the Comprehensive Manual of Development Policies (C.M.D.P.) as follows: From Section 1801.2.C.6 of the B.C.Z.R. and V.B.3.b of the C.M.D.P. to permit a distance of as little as 20 feet between buildings 25 feet to 30 feet in height in lieu of the required 30 feet for Lots 1 through 7, Lots 9 through 13, and Lots 16 and 17; from Section 1801.2.C.2.b of the B.C.Z.R. and V.B.6.c of the C.M.D.P. to permit a distance of as little as 20 feet between the centers of facing windows in lieu of the required 40 feet for Lots 1 through 17; from Section 504 of the B.C.Z.R. and V.B.6.b of the C.M.D.P. to permit distances of as little as 7 feet from window to side yard lot lines in lieu of the required 15 feet for Lots 1 through 12, and 15 through 17; and, from Section 1801.2.C.2.a of the B.C.Z.R. and V.B.5.a of the C.M.D.P. to permit distances from a tract boundary to a window of as little as 30 feet in lieu of the required 35 feet for Lots 1 through 8, and Lots 13, 15 and 17, in accordance with Petitioner's Exhibits 1 and the revised site plan for Lots 10, 11, 12, and 13, identified herein as Petitioner's Exhibit 5, be and is hereby GRANTED, subject to the following restrictions:

- 10 -

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

2) Prior to the issuance of any building permits, the Petitioners shall submit a Landscape Plan for Lots 10, 11 and 12 to the Office of Planning and Zoning for review and approval.

3) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

LES:bjs

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 3/16/94
By ky

- 11 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

March 15, 1994

(410) 857-4366

Newton A. Williams, Esquire
Nolan, Plumbhoff & Williams
210 West Pennsylvania Avenue, Suite 700
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
S/S Halbert Avenue, 420' E of the c/l of Belair Road
(4217-22 & 4300 Halbert Avenue, and 3-12 Quelet Court)
11th Election District - 5th Councilmanic District
Daniel E. McGraw, et ux and Jeff Duerbeck, et ux, v/a
the Scottsdale Development Partnership - Petitioners
Case No. 94-203-A

Dear Mr. Williams:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Jeff Duerbeck
P.O. Box 211, Phoenix, Md. 21131

Mr. Richard M. Yaffe, President
Landcon, Inc., 8826 Orchard Tree Lane, Towson, Md. 21204

Mr. Richard E. Matz, c/o Colbert Engineering, Inc.
3723 Old Court Road, Suite 206, Baltimore, Md. 21208

People's Counsel; File

Printed on Recycled Paper



Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at HALBERT AVE. & QUELET COURT SUBDIVISION KNOWN AS WHITE PROPERTY AND QUELET PROPERTY
94-203-A which is presently zoned CP-5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) (1) 1801.2.C.6, (V.B.3.b., CMDF) and (2) 1801.2.C.2.b. (V.B.6.c., CMDF) and (3) 504 and (V.B.6.b., CMDF) and (4) 1801.2.C.2.a. and (V.B.5.a., CMDF).

SEE ATTACHED.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty) IN ORDER TO PROVIDE BUILDING SITES FOR AESTHETICALLY PLEASING HOMES FOR THE TYPE OF MODELS THE BUILDER INTENDS TO BUILD ON THE SITE. STRICT CONFORMANCE WOULD BE UNNECESSARILY BURDENSOME.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

SIGNATURE OF PRESIDENT
LANDCON, INC.

Signature of Petitioner
Landcon, Inc.
By Jeff Duerbeck

8826 ORCHARD TREE LANE

TOWSON MD 21286

Signature of Petitioner
STEVE ROSEN

ABRAHAMOFF, NEUBERGER & LINDER

250 W. PRATT STREET 539-8300

BALTIMORE, MD 21201

Who do we currently occupy and offer, under the provisions of property, that there are no legal owners of the property which is the subject of this Petition.

Legal Owner(s): DANIEL E. MCGRAW, STEPHANIE MCGRAW, JEFF DUERBECK, RUTH DUERBECK

T/A SCOTTSDALE DEVELOPMENT PARTNERSHIP

Signature of Petitioner
Jeff Duerbeck - MANAGING PARTNER

Signature of Petitioner

P.O. BOX 211

PHOENIX MD 21131

Richard E. Matz, Colbert Engineering, Inc.

3723 OLD COURT ROAD #206 653-3838

BALTIMORE, MD 21208

Signature of Petitioner
Richard E. Matz

Signature of Petitioner
Richard E. Matz

Signature of Petitioner
Richard E. Matz

Signature of Petitioner
Richard E. Matz

Signature of Petitioner
Richard E. Matz

Signature of Petitioner
Richard E. Matz

94-203-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) (1) 1801.2.C.6, (V.B.3.b., CMDF) and (2) 1801.2.C.2.b. (V.B.6.c., CMDF) and (3) 504 and (V.B.6.b., CMDF) and (4) 1801.2.C.2.a. and (V.B.5.a., CMDF).

(1) To permit 20 ft. distance between buildings of 25 ft. to 30 ft. in height in lieu of the required 30 ft.; (2) To permit a distance of 20 ft. between the centers of facing windows in lieu of the required 40 ft.; (3) To permit distances of 7 ft. from a window to a side yard lot line in lieu of the required 15 ft.; (4) To permit a distance of 30 ft. from a tract boundary to a window in lieu of the required 35 ft.

(see next page)

des\quel.var

WHITE & QUELET LOT VARIANCE REQUEST LIST

LOT #	SECTION 1 1801.2.C.6. 20' Building Facing to Building	SECTION 2 1801.2.C.b 20' Between Facing Windows	SECTION 504 7' Window to Side Lot Line	1801.2.C.2.a 30' Window to Tract Boundary
1	X	X	X	X
2	X	X	X	X
3	X	X	X	X
4	X	X	X	X
5	X	X	X	X
6	X	X	X	X
7	X	X	X	X
8	X	X	X	X
9	X	X	X	X
10	X	X	X	X
11	X	X	X	X
12	X	X	X	X
13	X	X	X	X
14	X	X	X	X
15	X	X	X	X
16	X	X	X	X
17	X	X	X	X

#203

COLBERT ENGINEERING, INC.

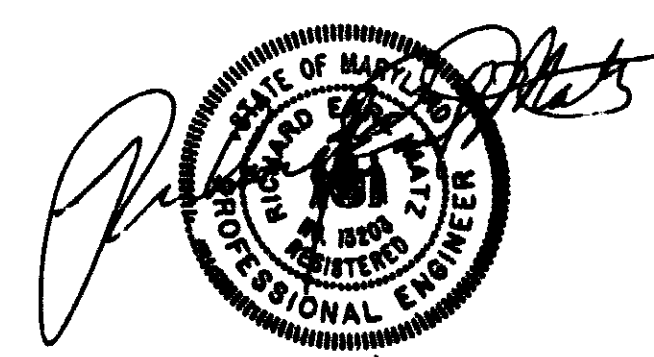
3723 OLD COURT ROAD • SUITE 206
BALTIMORE, MARYLAND 21208
PHONE: (410) 653-3838
FAX: (410) 653-7953

94-203-A

ZONING DESCRIPTION

BEING AT A POINT ON THE EAST SIDE OF HALBERT AVE. WHICH IS 30 FEET WIDE AT A DISTANCE OF 420 FEET OF THE CENTERLINE OF BELAIR ROAD 60 FEET WIDE. BEING LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 AND 17 IN THE SUBDIVISION KNOWN AS THE WHITE PROPERTY AND QUELET PROPERTY AS RECORDED IN BALTIMORE COUNTY PLAT BOOK 64 POLIO 65 CONTAINING 4.655 ACRES. ALSO KNOWN AS #4217, #4218, #4219, #4220, #4221, #4222, AND #4300 HALBERT AVENUE AND # 3, #4, #5, #6, #7, #8, #9, #10, #11 AND #12 QUELET COURT.

DESCR\WHITEQUEL.ZON



10/25/93

CIVIL ENGINEERS • LAND SURVEYORS

#203

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11 Date of Posting: 11/12/93

Posted for: Scottsdale Development Partnership

Petitioner: Scottsdale Development Partnership

Location of property: 5/8 Halbert Avenue, 420' E of c/l Belair Road

Location of Sign: 111 W. Chesapeake Avenue, Room 106

Remarks: 11/12/93

Posted by: Arnold Johnson Date of return: 11/12/93

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. Nov 25, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 25, 1993

THE JEFFERSONIAN,

A. Henickson
LEGAL ATTORNEY

NOTICE OF HEARING
The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, on Monday, December 13, 1993 at 9:00 a.m. in Room 118, Old Courthouse.

Case: 94-203-A (Item 203)
5/8 Halbert Avenue, 420' E of c/l Belair Road
(Subdivision known as White Property and Daniel Property)
11th Election District - 5th Councilmanic
Legal Owners: Daniel E. McKew, Stephanie McKew, Jeff Duerbeck and Ruth Duerbeck, t/a Scottsdale Development Partnership
Contract Purchaser: Landcon, Inc.
HEARING: MONDAY, DECEMBER 13, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Variance to permit a 20 foot distance between buildings of 25 feet to 30 feet in height in lieu of the required 30 feet for lots 1 - 7, 9-13, and 15-17; to permit a distance of 20 feet between centers of facing windows in lieu of the required 40 feet for lots 1 - 17; to permit a distance of 7 feet from a window to side yard lot line in lieu of the required 15 feet for lots 1 - 12, and 15-17; and to permit a distance of 30 feet from a tract boundary to a window in lieu of the required 35 feet for lots 1 - 8, 13, 15, and 17.

NOTES: (1) Hearings are handicapped accessible. For special accommodations please call 867-3353.
(2) For information concerning the file and/or hearing, please call 867-3391.

TO: FUTURE PUBLISHING COMPANY
11/25/93 Issue - Jeffersonian

Please forward billing to:

Landcon, Inc.
8226 Orchard Tree Lane
Towson, Maryland 21206
ATTN: BOBBIE CAMPOS
410-525-4200

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204, on Monday, December 13, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-203-A (Item 203)
5/8 Halbert Avenue, 420' E of c/l Belair Road
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NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 867-3391.

receipt

Date: 11/12/93 **94-203-A** Item Number: 203

Account: R 001 6150

Number: 203

Scottsdale Development Partnership -
5/8 Halbert Avenue, 420' E of c/l Belair Road
(Subdivision known as White Property and Daniel Property)

570 - 111 W. Chesapeake Ave. - \$65.00
090 - 2 Signs (handwritten) - \$35.00
720.00

0360340125MCHRC
EA 0004100/411 10 93 \$720.00

Please Make Checks Payable To: Baltimore County

Item Number: 203
Planner: MJK
Date Filed: 11-12-93

PETITION PROCESSING FLAG

94-203-A

This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Sophia. A copy of this "Flag" will be placed in the case file for the Zoning Commissioner's review. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.

Need an attorney ✓

The following information is missing:

- Actual address of property
- Zoning
- Acreage
- Plats (need 12, only 1 submitted)
- 200 scale zoning map with property outlined
- Direction district
- Councilmanic district
- RECR action information and/or wording
- Hardship/practical difficulty information
- Owner's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
- Contract purchaser's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
- Signature (need minimum 1 original signature) and/or printed name and/or title of person signing for legal owner/contract purchaser
- Power of attorney or authorization for person signing for legal owner and/or contract purchaser
- Attorney's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
- Notary Public's section is incomplete and/or incorrect and/or commission has expired

PET-FLAG (TXTSOPH)
11/17/93

Baltimore County Government
Office of Zoning Administration
and Development Management

#203

94-203-A

111 West Chesapeake Avenue
Towson, MD 21204

ZONING HEARING, ADVERTISING, AND POSTING REQUIREMENTS & FEES

Baltimore County Zoning Regulations require that notice be given to the general public concerning property owners' requests for property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- Posting fees will be assessed and paid to this office at the time of filing.
- Billing for legal advertising, sign and receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Bel Johnson
APPROVED: JARVIS, DIRECTOR

For newspaper advertising:

Item No: 203

Petitioner: SCOTTSDALE DEVELOPMENT PARTNERSHIP

Location: HALBERT AVE & QUELLET COURT - NECKY HALL

PLEASE FORWARD ADVERTISING BILL TO:

NAME: LANDCON, INC ATTN: BOBBIE CAMPOS

ADDRESS: 8226 ORCHARD TREE LANE

TOWSON, MD 21206

PHONE NUMBER: 825-4200

Atty: 825-4200

(Revised 04/29/93)

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

NOVEMBER 19, 1993

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204, on Monday, December 13, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-203-A (Item 203)
5/8 Halbert Avenue, 420' E of c/l Belair Road
(Subdivision known as White Property and Daniel Property)
11th Election District - 5th Councilmanic
Legal Owners: Daniel E. McKew, Stephanie McKew, Jeff Duerbeck and Ruth Duerbeck, t/a Scottsdale Development Partnership
Contract Purchaser: Landcon, Inc.
HEARING: MONDAY, DECEMBER 13, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Variance to permit a 20 foot distance between buildings of 25 feet to 30 feet in height in lieu of the required 30 feet for lots 1 - 7, 9-13, and 15-17; to permit a distance of 20 feet between centers of facing windows in lieu of the required 40 feet for lots 1 - 17; to permit a distance of 7 feet from a window to side yard lot line in lieu of the required 15 feet for lots 1 - 12, and 15-17; and to permit a distance of 30 feet from a tract boundary to a window in lieu of the required 35 feet for lots 1 - 8, 13, 15, and 17.

Bel Johnson
Arnold Johnson
Director

cc: Scottsdale Development Partnership
Colbert Engineering, Inc.
Landcon, Inc.
Steven Rosen, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 867-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

December 3, 1993

(410) 887-3353

Steve Rosen, Esquire
Abramoff, Neuberger & Linder
250 West Pratt Street
Baltimore, Maryland 21201

RE: Case No. 94-203-A, Item No. 203
Petitioner: Scottsdale Development Partnership
Petition for Variance

Dear Mr. Rosen:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commission, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on November 12, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

- The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Maryland Department of Transportation
State Highway Administration

O James Lightner
Secretary
Hal Kassoff
Administrator

11-22-93

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No: 94-203-A (MJK)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Robert Small
for DAVID N. KATZ, Acting Chief
Engineering Access Permits
Division

BS/

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

14-203H

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director ZADP November 30, 1993
Zoning Administration and Development Management

Pat Keller, Deputy Director
Office of Planning and Zoning

Pat Keller, Deputy Director
Office of Planning and Zoning

Pat Keller, Deputy Director
Office of Planning and Zoning

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, ZADP DATE: November 30, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petition No. 203
White/Quail Property

INFORMATION:

Petitioner: Scottsdale Development Partnership
c/o Jeff Duerbeck
PO Box 211 Phoenix MD 21131
Property Size: 4.652 (gross) acres
Zoning: DR 5.5

Requested Action: To provide "blanket" variances that would allow 20 foot building setbacks versus either a height to height separation, or a window to window separation and building to lot line separations.

Justification: The Petitioner states that the variances are necessary "in order to provide building sites for aesthetically pleasing homes for the type of models the builder intends to build on the site. Strict conformance would be unnecessarily burdensome".

SUMMARY OF RECOMMENDATIONS:

The White/Quail Development Plan was approved by the CRG on July 18, 1991. As can be seen from the approved Final Development Plan (FDP), the Petitioner anticipated providing 17 homes on 4.652 acres. Based on the setbacks shown on the FDP, which generally show one side of the home with a 15 foot setback, and the other side with a 10 foot setback thus allowing for a 25 foot side building to side building separation. The home with the 15 foot side yard would be allowed to provide windows on that side, however, the adjoining home with the 10 foot side yard setback would not be allowed to provide windows. The 25 foot side to side building setback also allows a building height (to ridge line) of 25 feet. The 25 foot building height accommodates a 2 story colonial type building. The building footprints shown on the approved FDP range between 26' to 30' by 38' to 40'. The square footage per floor ranges between 988 and 1,200 square feet. Assuming that two floors, plus a basement are provided the overall square footage of the home would range between 2,964 and 3,600 square feet. The FDP does not show how parking would be provided.

203VAR, ZAC/PZONE/ZAC1

Pg. 1

MEMO TO: Arnold Jablon, Director
Zoning Administration Development Management
SUBJECT: Petition No. 203
White/Quail Property
DATE: November 30, 1993

The Petitioner in this case is requesting variances so that a standard "landmark" home can be constructed. Rear yards of 30 feet are generally being provided for all of the homes. Side to side building setbacks are not less than 20 feet. A building footprint ranging between 40' to 45' by 40' to 50' is being proposed. This footprint would allow a range of 1,600 to 2,250 square feet per floor. The Petitioner is proposing parking within the structures through the use of attached garages.

The Comprehensive Manual of Development Policies which was adopted by the Planning Board and County Council in 1992 anticipated that old CRG/FDP Plans would be requesting variances in order to take full advantage of the newer CNDP standards without having to comply with the commensurate design guidelines and Hearing Officer review process. Placing larger buildings on the smaller (CRG) lots disrupts the design of the subdivision. The CNDP states on page 33 that "in these cases the appropriate solution is to resubdivide (re-design) the site to accommodate the larger buildings rather than approve blanket variances."

This disruption of site planning is particularly evident in the petitioners lots 10, 11, and 12. It is the responsibility of the County to assure livable communities for future residents. Lots 10, and 11 have rear yards of 15 feet and 16 feet respectively. The provisions of decks and patios would literally put decks at the side and rear fence of Lot 12. In addition, the private yard areas would be dwarfed by the buildings. The Office of Planning and Zoning finds this living situation as proposed totally unsupportable. The Petitioner will undoubtedly point to the CRG rear yards for Lots 10 and 11 which ranged between 20 feet and 32 feet respectively. It must be pointed out, however, that the cumulative effects of CRG setbacks are not as detrimental as what is being proposed. Mixing and matching the not be allowed, and is not in keeping with the spirit and intent of either.

Based upon the information provided and analysis conducted, staff recommends DENIAL of the Petitioner's request based upon the following.

1. The CNDP passed by the Baltimore County Planning Board and County Council in 1992 recognized that this situation would arise and that Petitioners should not be rewarded with variances for maximizing old CRG Plans without providing appropriate amenities.
2. Contrary to the developers assertion that the variances will provide "building sites for aesthetically pleasing homes" the actual impact will result in an overcrowding of the site.
3. Section 307.1 states that variances may only be granted where "the Zoning Regulations for Baltimore County would result in practical difficulty or unnecessary hardship." It is staff's contention that the regulations do not impose the hardship but rather the Petitioner's unwillingness to comply with either the approved CRG/FDP (which was developed, engineered and certified by the Petitioner) or comply with all of the new CNDP setbacks, design guidelines and Hearing Officer's review.

203VAR, ZAC/PZONE/ZAC1

Pg. 2

MEMO TO: Arnold Jablon, Director
Zoning Administration Development Management
SUBJECT: Petition No. 203
White/Quail Property
DATE: November 30, 1993

In summary, Section 307.1 of the BCZR states that "variance(s) shall be granted only if in strict harmony and intent of said regulations. The requested variances are not in harmony with the approved CRG/FDP Plans e.g., with the new 1992 regulations which require 30 foot rear yard setbacks. The private yard spaces being proposed for these structures are not in keeping with the best interest of the future occupants of these homes. Variances will no doubt be requested by future homeowners in order to provide patios, decks, and fences that will be needed to assure privacy."

Pat Keller, Deputy Director

PK:bjs

Attachments

CC: File

203VAR, ZAC/PZONE/ZAC1

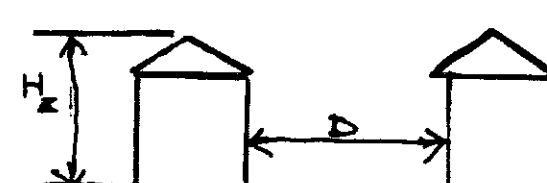
Pg. 3

ATTACHMENT A

CRG/FDP BUILDING SETBACK REQUIREMENTS

TYPICAL SETBACK REQUIREMENTS ALL UNITS

WINDOW TO WINDOW	- 40'
WINDOW TO TRACT BOUNDARY	- 35'
WINDOW TO STREET R/W	- 25'
WINDOW TO LOT LINE	- 15'
BUILDING TO TRACT BOUNDARY	- 30'
BUILDING TO EXISTING STREET R/W	- 25'
BUILDING TO EXISTING	- 50'



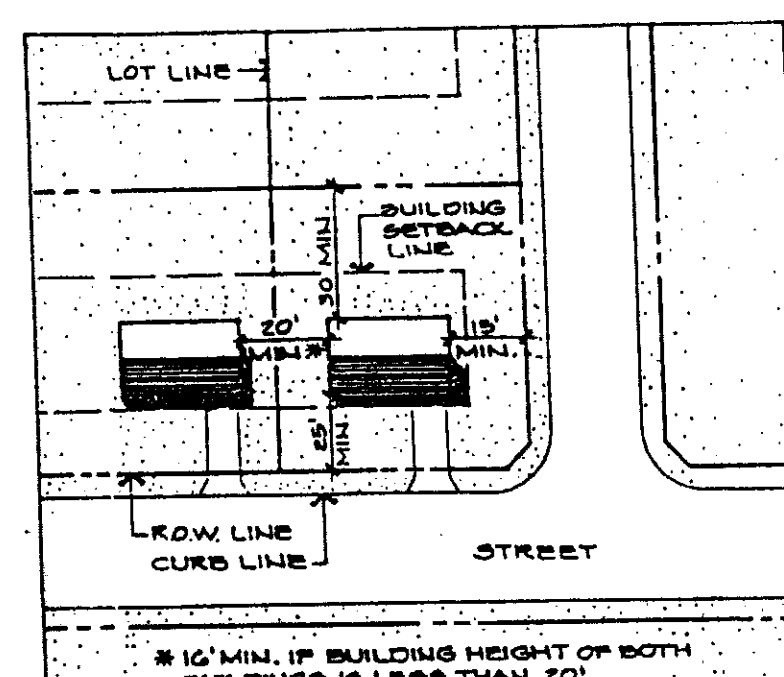
WHEN H = LESS THAN 20'	D = 16' MIN.
WHEN H = 20' - 25'	D = 25' MIN.
WHEN H = 25' - 30'	D = 30' MIN.
WHEN H = 30' - 35' (MAX)	D = 40' MIN.

HEIGHT TO HEIGHT RELATION

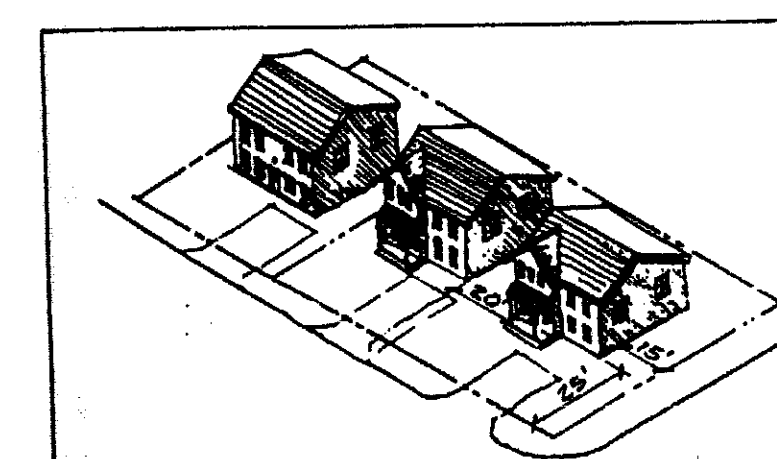
203VAR, ZAC/PZONE/ZAC1

Pg. 4

COMPREHENSIVE MANUAL OF DEVELOPMENT POLICIES - SETBACKS Single Family Detached



Minimum setbacks for single family detached, semi-detached and duplex units in D.R. 3.5, 5.5, 10.5 and 16 zones



Perspective view, minimum setbacks in D.R. 3.5, 5.5, 10.5 and 16

Building Type: Single Family Detached, Semi-Detached and Duplex Dwellings

Location: DR 3.5, 5.5, 10.5, 16

Minimum setback requirements:

- From a front building face to a public street right-of-way or property line -- 25 feet
- Between side building faces -- 16 feet for buildings up to 20 feet in height, and 20 feet for buildings with heights greater than 20 feet
- From a rear building face to a rear property line or public street right-of-way -- 30 feet
- From a side building face to a public street right-of-way and/or tract boundary -- 15 feet
- From side or front building face to the edge of paving of a private road -- 25 feet
- Setbacks for buildings located adjacent to arterial roadways shall be increased by 20 feet.

RESIDENTIAL STANDARDS 5

Single Family Detached

Building height requirements:

Maximum building height -- 50 feet.

Maximum building height, DR 16 zone -- 60 feet.

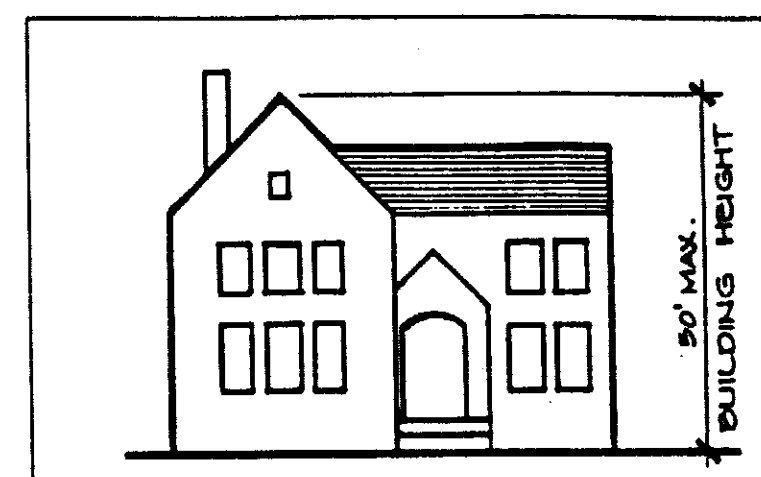
Other requirements:

Where garages extend beyond the front building face, they shall incorporate design features like windows, a pitched roof or some other architectural feature.

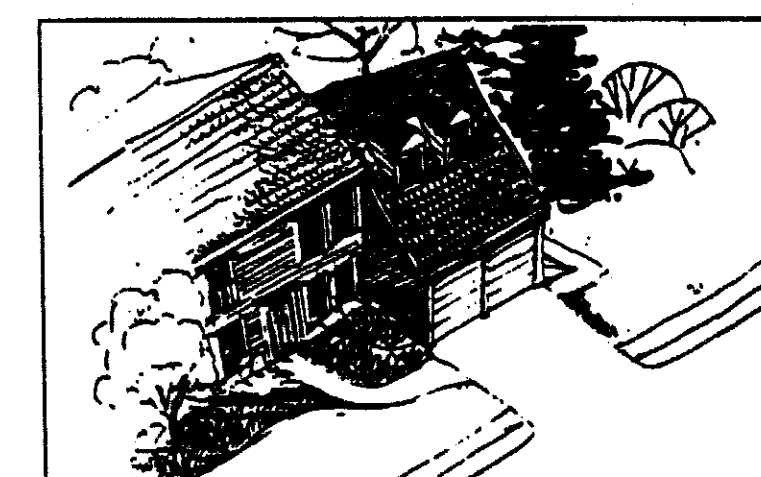
Open space shall be provided in accordance with the Baltimore County Local Open Space Manual.

Landscaping shall be provided in accordance with the Baltimore County Landscape Manual.

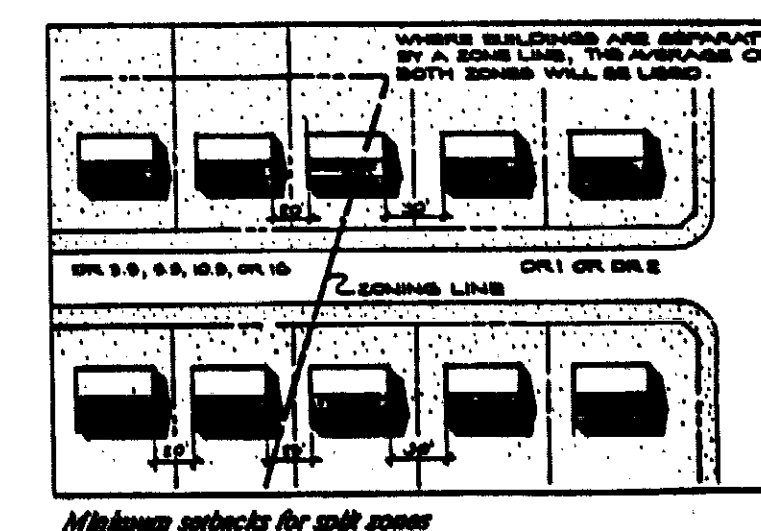
Where properties are split-zoned, dwellings in DR 3.5, 5.5, 10.5 and 16 must use the standards for that zone.



Building Height



Extended garage with pitched roof and window



Minimum setbacks for split zone

6 RESIDENTIAL STANDARDS

COMPREHENSIVE MANUAL OF DEVELOPMENT POLICIES - VARIANCES Blanket Variances

Blanket Variances

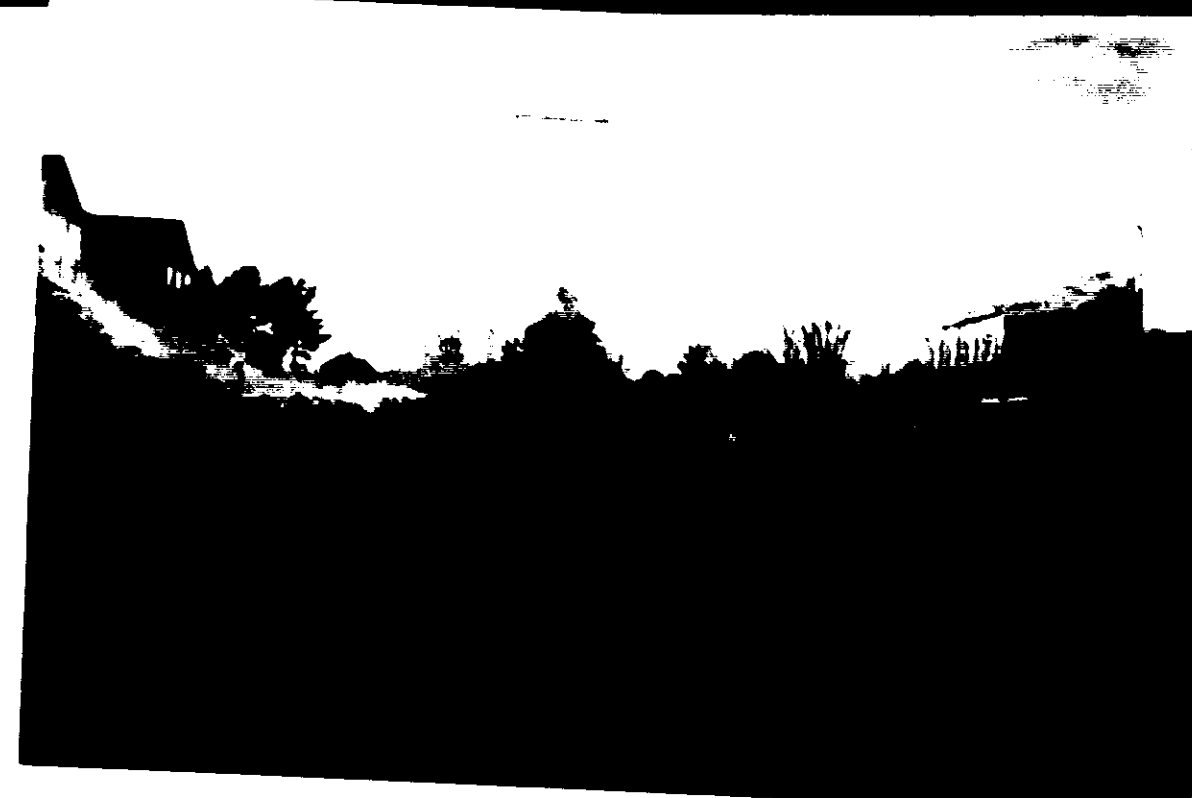
The CNDP is a design driven document. It sets the building to building relationships and the location of a building in relation to lot-lines and rights-of-way. Consequently, the central element of a subdivision plan is the building footprint, which outlines a house's exterior perimeter, or in certain instances, building restriction lines which outline the building envelope. On development plans these footprints become the building restriction lines. Any change in these lines is a change in the spatial relationships established by the CNDP.

The redesign of a subdivision around a larger building than can be accommodated by the footprint on the development plan results in a request for a blanket variance. Since this would alter the spatial relationships established for each house type, the request for blanket variances should only be considered in unusual circumstances. In these cases the appropriate solution is to resubdivide (re-design) the site to accommodate the larger buildings rather than approve blanket variances.

RESIDENTIAL STANDARDS 33



A. SE 1/4 of Halbert Ave., E of Site



B. Looking W on Halbert Ave. from Main Ave. toward site. P.D. #3



C. Looking from site toward Sharondale East, Halbert Ave.

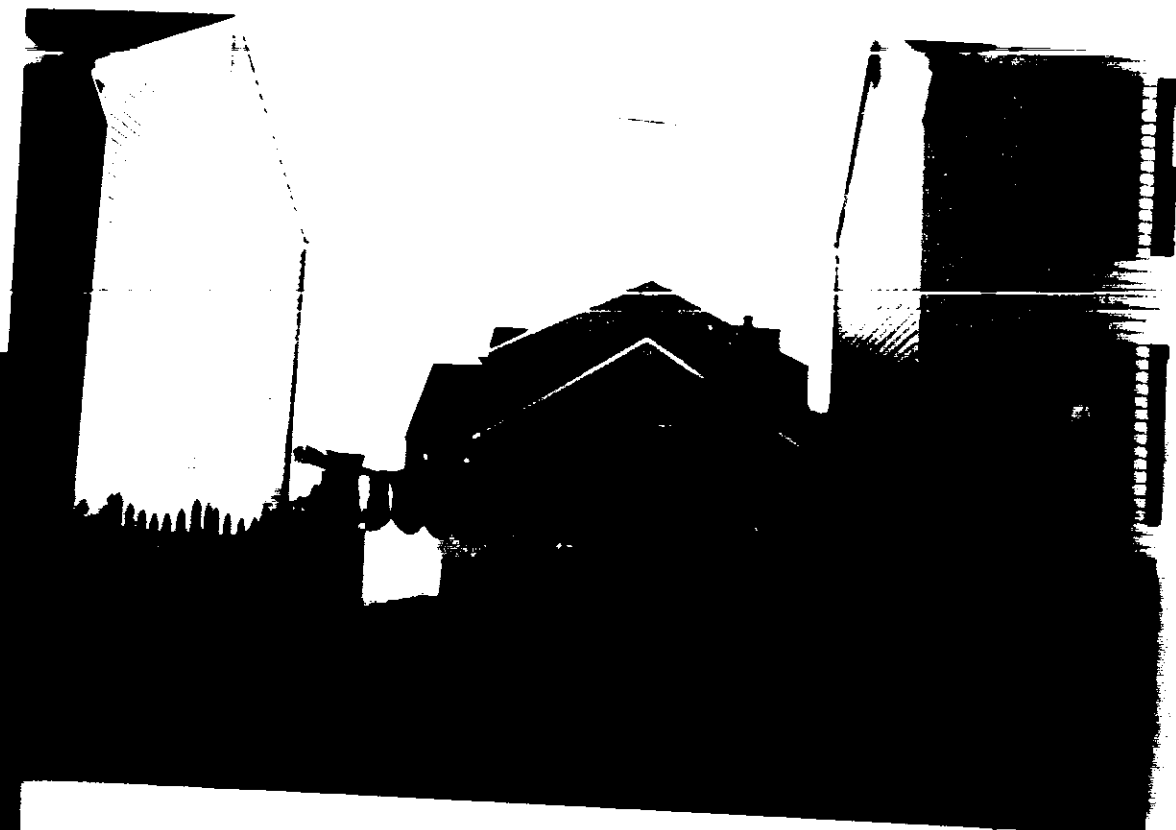


D. Looking into site from Halbert Ave., Belair Rd. overhill



E. NW corner of site and NW side of site, including the Quiet Property

McKew/Dunbeck Property
Landmark Homes.
Case No. 94-203A.



F. Yard & side wall details Halbert Ave. - E of site



G. Looking W on site toward Halbert Ave.



H. Looking E along NE 1/4 of site



I. Looking NE from some side



J. Looking SE toward Sharondale East across site



K. Pine trees along W side of site



L. Looking N along W side of site



M. SW 1/4 of site



N. House opp. SW 1/4 of site



O. Looking East on Halbert Ave. toward Belair Rd. from site



P. Looking NE across site



Q. Looking from SE 1/4 of site



R. Looking N along E 1/4 of site



S. Looking S along E side of site

